

REMARKS

1. Amendment of Abstract:

The Abstract was objected to because in line 11, the word "soak" should be changed to "soaked" which is hereby submitted. No new matter is being introduced by this change.

2. Editorial Corrections to Specifications:

Several editorial corrections have been made on page 4, lines 15-23, page 5, lines 1-7 and lines 17-21 in the Specification. No new material is being added by these changes.

3. Election/Restriction:

Provisional election is made without transverse to prosecute the invention of the tool kit holster recited in Claims 1-5, 7 and 8. Claim 6 is cancelled.

4. Rejection of the Claims:

Claims 1, 7 and 8 were rejected under 35 U.S.C. 1039a) as being unpatentable over Almo (U.S. Patent No. 6,308,875) in view of Diamond (U.S. Patent No. 6,189,153). In order to reach this conclusion, the Examiner stated that because Almo discloses a surgical instrument storage pack and Diamond discloses a pocket liner, it would be obvious to one of ordinary skill in the art at the time the invention to combine the removable protective sleeve teachings of Diamond in the pockets of Almo so that sharp surgery tools do not injure the wearer.

Claims 2, 3 and 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Almo in view of Diamond and further in view of Wehner (U.S. Patent No. 3,413,399). According to the Examiner, it would be obvious to one of ordinary skill in the art at the time of invention to apply the composition of Wehner to the hold and removable sleeves of Almo in order to prevent the growth of microorganisms in the holster. With respect to Claim 3, the

1 Examiner argued that Diamond discloses a removable sleeve that is flexible and resistant,
2 such as plastic. With respect to Claim 5, the Examiner argued that because Diamond
3 discloses sleeves are made of flexible material resistant to perforation, it may be assumed this
4 material could include stiff paper. Based on this assumption, the Examiner argued that it
5 would therefore be obvious to make the sleeve out of disposable paper that would be cheap
6 and easier to dispose.

7 In response, to the rejection of Claim 1, Claim 1 is amended to include the limitation
8 recited in Claim 2 (sleeve including an antimicrobial agent applied to the inside surface),
9 which has been cancelled. The Applicant's now traverse the Examiner's rejection and
10 requests for reconsideration on the following grounds:

11 1. Non-Analogous Art and No Reason to Combine references in the Manner
12 Suggested:

13 The Examiner argues that the surgical instrument storage pack disclosed in Almo is
14 analogous art and that the use of removable sleeves in the pockets of the instrument storage
15 pack is obvious to protect against injury caused by sharp surgical instruments placed in the
16 products. The Applicants' invention is a hairdresser implement holder designed to sterilizes
17 the haircutting implement when placed into the sleeve. It is postulated that bacterial skin
18 disease are commonly caused by cross-contamination of infections between customers due to
19 non-sterile implements. An ordinary person in the art concerned with this problem would not
20 have considered combining an autoclavable or disposable surgical instrument storage pack
21 used to temporarily hold sterile surgical instruments over the surgeon's front abdominal area
22 during surgery as disclosed in Almo and a fabric pocket protector disclosed in Diamond.

23 While the Applicants' invention and Almo's storage pack both pertain generally to the field

1 of holding implements on the human body, the fields of surgery and hairdressing are distance.
2 Further, in the hairdressing industry, the same tools are used repeatedly with different
3 customers. In medicine, the surgical tools are normally used repeatedly with different
4 patients. In surgery, tools must be either sterilized by autoclave or discarded. Hairdressers
5 do not sterilize nor discard their implements after each customer.

6 In the Office Action, the Examiner stated it would be obvious to one of ordinary skill
7 in the art at the time the invention to combine the removable protective sleeve teachings of
8 Diamond in the pockets of Almo so that sharp surgery tools do not injure the wearer. The
9 Applicant submits that no statement can be found in Almo that indicates that injuries caused
10 by sharp surgery tools penetrating the pockets are problematic. Therefore, the Examiner's
11 statement is merely hypothetical. It should be pointed out that during surgery, the surgeon
12 does not bend over or move around the operating table. The surgeon maintains his arms and
13 body in the sterile area immediately over the patient.

14 It is also pointed out that during surgery, steps are taken to eliminate any source of
15 bacteria. Only those tools and accessories absolutely needed for surgery are used in and
16 around the operating table. Additional structures, such as sleeves used in the pockets of a
17 storage pack like the ones disclosed in Diamond, are unlikely because additional steps would
18 need to be take in ensure their sterility and not a bacteria source. If puncture injuries were a
19 problem as suggested by the Examiner, a more likely solution would be to make the pack one
20 of thicker material rather than to use removable sleeves.

21 Diamond discloses a rectangular shaped pocket lining designed to fit within an
22 integrally formed pocket on a piece of article or garment. The pocket lining is made of
23 robust, flexible material such as leather or nylon (See Col. 2, line 14-18 and Col. 3, lines 31-

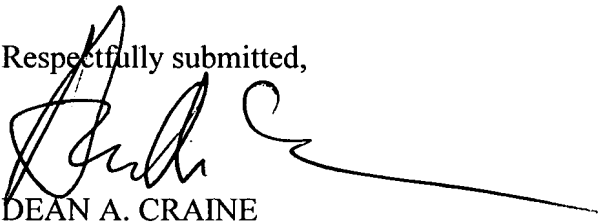
1 34) that's resistant to abrasion and perforation. In order for them to be used with the surgical
2 storage pack, the material would have to be made of material autoclavable or disposable.
3 Such qualities are opposite to the qualities recited in Diamond. Therefore, it order to
4 combined the references as suggested, the linings in Diamond would have to be modified to
5 such a degree that they would not longer meet the inventor's objectives. Such combinations
6 are improper and based solely on hindsight reasoning. .

7 Regarding the use of an antimicrobial agent applied to the sleeve to disinfect the
8 haircutting implement inserted into the sleeve, the Examiner relies on Wehner which teaches
9 the use of a composition that contains aluminum or zirconium for providing anti-microbial
10 and water-repellency to textile materials and cellulose protects. The Applicants submit that
11 compositions containing aluminum or zirconium are preservatives and not antimicrobial.
12 Also, no disclosure or suggestion is made in Almo that using a preservative to the pockets in
13 the storage pack would be desirable or useful. Nor is a disclosure or suggestinon made in
14 Diamond of adding a preservative to Diamond's sleeve. It should be pointed out that
15 preservatives do not sterilize objects but merely lower bacteria counts so that the body's
16 normal immune system may eliminate them. During surgery, the tools and operating area are
17 sterile (no bacteria) Therefore, the Examiner's belief that use of a preservative would be
18 useful is unsupported.

19 4. Corrections of Drawings:

20 The Examiner objected to the drawing in Fig 13 on the grounds that the hook and
21 loop fasteners shown in Fig 13 should be identified by reference numbers 101 and 102. In
22 response, the Specification on page 6 has been corrected
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Respectfully submitted,

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